

health care clinics generally in the community in the care and treatment of patients. The for their minor children, to use that degree of care, skill, diligence, and attention used by public generally and patients seeking treatment there, including individuals seeking treatment New York. Defendant, in operating the Morris Heights Health Center held itself out to the care facility knows as the Morris Heights Health Center at 85 West Burnside Avenue, Bronx, New York. Defendant, in operating the Morris Heights Health Center held itself out to the

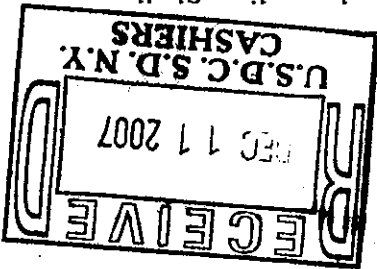
3. At all times relevant the defendant United States of America operated a health care facility knows as the Morris Heights Health Center at 85 West Burnside Avenue, Bronx, New York. Defendant, in operating the Morris Heights Health Center held itself out to the

2. Plaintiff Timothy Beasley, born on February 2, 1990, is the minor son of plaintiff Sheila Beasley, who sues as next friend. The plaintiff parties reside at 1730 Harrison Avenue, Bronx, New York 10453, which is within the Southern District of New York. The acts and omissions alleged occurred within the Southern District of New York.

1. This is an action arising under the Federal Tort Claims Act, 28 U.S.C. § 2671, et seq. The Court has jurisdiction pursuant to 28 U.S.C. § 1346(b)

Beasley, alleges:

Plaintiff, Timothy Beasley, an infant by his mother and natural guardian, Sheila



Defendant.-----X

UNITED STATES OF AMERICA (U.S. Dept. of Health and Human Services, Morris Heights Health Center),

-against-

COMPLAINT

Plaintiff,

TIMOTHY BEASLEY, an infant by his mother and natural guardian, SHEILA BEASLEY,
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES DISTRICT COURT

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JUDGE SULLIVAN
07 CV 11154
Civil Action No.
ECF Case

defendant's employees, the minor plaintiff had to have his left testicle surgically removed,

7. As a result of the negligence, carelessness and medical malpractice of the

perform necessary diagnostic tests required to make a proper diagnosis.

examine and assess the patient, failing to diagnose the patient's true condition and failing to

the minor plaintiff deviated from good and accepted pediatric practice by failing to promptly

Dr. Walsh and others under his supervision or for whom he was responsible, in so treating

6. Defendant and its employees at the Morris Heights Health Center, including

at Bronx Lebanon Hospital in Bronx, New York.

torsion requiring the surgical removal of the infant's left testicle later on December 13, 2005,

resulting in unnecessary pain and suffering, with worsening and aggravation of testicular

Center personnel, the infant plaintiff's condition was not promptly and properly assessed,

for several hours. While the infant plaintiff was under the care of Morris Heights Health

Heights Health Center at approximately 8:15 a.m. with a complaint of severe testicular pain

5. On December 13, 2005 plaintiff Timothy Beasley presented to the Morris

care personnel, including John Walsh, M.D., the relationship of physician-patient.

between the plaintiff Timothy Beasley and the Morris Heights Health Center and its health

and place of their actions hereinafter alleged. At all times hereinafter alleged there existed

hereinafter described were acting within the scope of their office and employment at the time

4. All of the employees and personnel of the Morris Heights Health Center

personnel.

control and supervision, with the right to employ and discharge such employees and

doctors, nurses, and other health care personnel over whom defendant exercised exclusive

Morris Heights Health Center operated by defendant had in its employ, among others,

and he sustained consequential injury and disability, including pain, mental anguish, permanent disfigurement and limitation of function, medical and hospital expenses and will in the future experience pain and suffering, mental anguish, disfigurement and loss of function and will sustain future pecuniary damages.

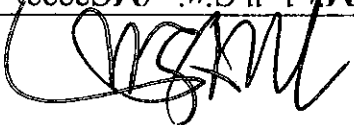
8. On December 11, 2006 plaintiffs submitted their claim in the amount of \$3,000,000 to the Department of Health and Human Services, which agency rejected the claim by letter postmarked July 12, 2007.

WHEREFORE plaintiffs demand judgment against defendant in the sum of

\$3,000,000, together with costs of suit, and such other and further relief as the Court may

deem proper.

Dated: December 10, 2007
Yonkers, New York



Mitchell Gittin (MG2222)
Fitzgerald & Fitzgerald, P.C.
Attorneys for Plaintiff
538 Riverdale Avenue
Yonkers, New York 10705
914-378-1010

538 RIVERDALE AVENUE
YONKERS, NEW YORK 10705
(914) 378-1010

To
Attorney(s) for
Office and Post Office Address

FITZGERALD & FITZGERALD, P.C.
Yours, etc.

Dated,

on the day of 200 at M.
of the within named Court, at
settlement to the HON.
THAT AN ORDER
NOTICE OF SETTLEMENT
duly entered in the office of the clerk of the within named court on
that the within is a (certified) true copy of a
NOTICE OF ENTRY
Sir:-Please take notice

200

of which the within is a true copy will be presented for
one of the judges

Attorney(s) for

Dated,

Service of a copy of the within
is hereby admitted.

Attorney(s) for

To

File # A06010 Attorney M.T.G.

Office and Post Office Address
538 RIVERDALE AVENUE
YONKERS, NEW YORK 10705
(914) 378-1010

FITZGERALD & FITZGERALD, P.C.
Plaintiffs

COMPLAINT

Defendant.

UNITED STATES OF AMERICA (U.S. Dept. of
Health and Human Services, Morris Heights
Health Center),

-against-

Plaintiffs,

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
TIMOTHY BEASLEY, An Infant, by his Mother and
Natural Guardian, SHEILA BEASLEY,

BY DEPUTY CLERK

CLERK

DATE

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

PLAINTIFFS ATTORNEY (name and address)

Fitzgerald & Fitzgerald, P.C.
538 Riverdale Avenue
Yonkers, New York 10705

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

TO: (Name and Address of Defendant)

United States Department of Health & Human Services
Office of the General Counsel
330 Independence Avenue, S.W., Room 4760
Washington, D.C. 20201

UNITED STATES OF AMERICA

v.

CASE NUMBER:

SUMMONS IN A CIVIL ACTION

TIMOTHY BEASLEY, An Infant, by his Mother
and Natural Guardian, SHEILA BEASLEY,

United States District Court
SOUTHERN DISTRICT OF NEW YORK